

# Exhibit “A”

Approved, SCAO

Original - Court  
1st copy - Defendant2nd copy - Plaintiff  
3rd copy - ReturnSTATE OF MICHIGAN  
JUDICIAL DISTRICT  
16th JUDICIAL CIRCUIT  
COUNTY PROBATE

## SUMMONS AND COMPLAINT

CASE NO.

-NO

15 - 2598 - N 0

Court address

40 N. Main St. Mt. Clemens, MI 48043

Court telephone no.

(586) 469-5150

Plaintiff's name(s), address(es), and telephone no(s).

Karen Smolarz  
c/o Zebrowski Law  
45952 Schoenherr  
Shelby Twp., MI 48315  
(586) 566-7266

v

Defendant's name(s), address(es), and telephone no(s).

WAL-MART STORES, INC., a Foreign corporation  
individually and d/b/a Wal-Mart, WalMart, Wal-Mart  
Neighborhood Market, Wal-Mart Supercenter, Wal-Mart  
Supercenter #4660  
c/o The Corporation Company

Plaintiff's attorney, bar no., address, and telephone no.

Paul A. Zebrowski (44427), Thomas A. Biscup (40380)  
Anthony J. Nardone (78836)  
Zebrowski Law  
45952 Schoenherr Shelby Township, MI 48315  
(586) 566-7266THE CORPORATION COMPANY  
30600 TELEGRAPH ROAD, STE 2345  
BINGHAM FARMS, MI 48025**JAMES M. MACERONI****SUMMONS** NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued <b>JUL 9 4 2015 - - OCT 2 3 2015</b>	This summons expires	Court clerk <i>Camille Schaefer</i>
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\*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal

**COMPLAINT** Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

## Family Division Cases

- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.
- The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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## General Civil Cases

- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.
- The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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**VENUE**

Plaintiff(s) residence (include city, township, or village) Macomb, MI	Defendant(s) residence (include city, township, or village) Clinton Twp., MI
Place where action arose or business conducted Clinton Twp., MI	

07/24/2015

Date

*Anthony J. Nardone*  
Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

**PROOF OF SERVICE****SUMMONS AND COMPLAINT**Case No. 15-2598-N

**TO PROCESS SERVER:** You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE**☐ **OFFICER CERTIFICATE**

OR

☐ **AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- ☐ I served personally a copy of the summons and complaint,  
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,  
 together with Plaintiffs First Request for Production of Documents re

List all documents served with the Summons and Complaint

Wal-Mart Stores Inc., Dated July 27, 2015

on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- ☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature

Name (type or print)

Title

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
 Date

My commission expires: \_\_\_\_\_ Date Signature: \_\_\_\_\_  
 Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with

Attachments

on

Day, date, time

on behalf of

Signature

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

KAREN SMOLARZ,

Plaintiff,

v.

15-2598-NO

Case No: \_\_\_\_\_-NO

Hon: JAMES M. MACERONI

WAL-MART STORES, INC., a Foreign corporation individually ~~and~~ d/b/a Wal-Mart, WalMart, Wal-Mart Neighborhood Market, Wal-Mart Supercenter, Wal-Mart Supercenter #4660, and WAL-MART STORES EAST, LIMITED PARTNERSHIP, a Foreign Limited Partnership, individually ~~and~~ d/b/a, Wal-Mart, Wal-Mart Neighborhood Market, WSE Management LLC, Wal-Mart Supercenter and/or Wal-Mart Supercenter #4660, licensed to do business in the State of Michigan, jointly and severally,

Defendant.

ZEBROWSKI LAW

Paul A. Zebrowski (P44427)

Thomas A. Biscup (P40380)

Anthony J. Nardone (P78836)

Attorneys for Plaintiff

45952 Schoenherr Road

Shelby Township, MI 48315

(586) 566-7266/Fax (586) 566-6898

paul@zebrowskilaw.com

file@zebrowskilaw.com

RECEIVED

JUL 24 2015

CARMELLA SABAUGH  
Macomb County Clerk

FILED  
15 JUL 24 AM 4:25

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, Karen Smolarz, by and through her attorneys, ZEBROWSKI LAW, and files her complaint against the Defendants, Wal-Mart Stores Inc., et al., as follows:

PARTIES AND JURISDICTION

1. Plaintiff, Karen Smolarz, is a citizen of the State of Michigan and resides in

Macomb County, Michigan.

2. Defendant, Wal-Mart Stores, Inc, is a Delaware Corporation licensed to do business in the State of Michigan, and regularly and continuously conducts business in the County of Macomb, State of Michigan.

3. Defendant, Wal-Mart Stores East, L.P. is a Delaware limited partnership licensed to do business in the State of Michigan, and regularly and continuously conducts business in the County of Macomb, State of Michigan.

4. Defendants operate many locations, including the Wal-Mart Supercenter #4660 in Macomb County, Michigan, at 18400 Hall Road, Clinton Township, MI 48038, ("Wal-Mart Supercenter").

5. The amount in controversy exceeds \$25,000.00 exclusive of interest, costs, and attorney fees.

6. This Court has jurisdiction over this matter and venue is proper.

#### FACTUAL BACKGROUND

7. On Sunday, July 19, 2015, the Plaintiff was injured at the Wal-Mart Supercenter.

8. On July 19, 2015, as the Plaintiff was entering the Wal-Mart Supercenter, Wal-Mart employees were returning a large amount of shopping carts to a shopping cart pick up area in a negligent manner.

9. Plaintiff was entering the Wal-Mart Supercenter through the marked entrance. While walking in the vestibule area (area between the two sets of entrance doors) along the proper entrance area, the Plaintiff passed by the area, off to the side, where shopping carts are stored and made available for shoppers entering the store, if they desire one.

10. The Plaintiff did not desire or seek to get a cart and thus continued walking in the

proper area for entering the second set of entrance doors. As she was walking through the vestibule she was struck by shopping cart(s) that were propelled out of the shopping cart storage area with significant force, enough to knock the Plaintiff to the ground.

11. The shopping cart(s) were being pushed into the storage area by Wal-Mart Supercenter employee(s) at the time.

12. The negligent manner in which the Wal-Mart Supercenter employee(s) were pushing the shopping carts into the storage area caused shopping cart(s) to strike the Plaintiff, causing her to be knocked to the ground.

13. The shopping cart(s) that the Wal-Mart Supercenter employee(s) were pushing were not properly secured.

14. The Wal-Mart Supercenter employee(s) could not see the Plaintiff, as their view was obstructed while they were returning the shopping carts.

15. After the shopping cart(s) caused the Plaintiff to be knocked to the ground, the Wal-Mart Supercenter employee(s) continued their attempt to return the shopping carts in a negligent manner, because they were not aware that they had caused the Plaintiff to be knocked to the ground.

16. The Plaintiff has sustained serious injuries as a result of being thrown to the ground by the shopping cart(s), including, but not limited to, a broken hip. This has resulted in a hip replacement.

#### COUNT I – NEGLIGENCE SHOPKEEPER LIABILITY

17. Plaintiff hereby re-alleges and incorporates by reference the allegations contained in paragraphs 1-16 as though full set forth herein.

18. At all relevant times the Plaintiff was an invitee on Wal-Mart Supercenter's

premises for a commercial purpose.

19. At all relevant times the Defendants held itself open to customers for the purchase of goods, and accordingly owed the Plaintiff shopkeeper duties.

20. As set forth above, the Plaintiff was entering the Wal-Mart Supercenter, in the proper manner, when she was struck by shopping cart(s), causing her to be knocked to the ground.

21. Defendants' conduct, in returning the shopping carts in a negligent and forceful manner caused a dangerous situation, breaching its shopkeeper duties owed to the Plaintiff.

22. The Defendants were aware, or reasonably should have known, that its conduct was causing a dangerous situation on its premises.

23. As a direct and proximate result of the Defendants' conduct as set forth above, Karen Smolarz has sustained serious injuries and damages, which include, but are not necessarily limited to, the following:

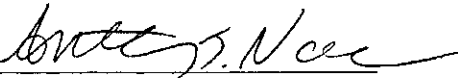
- a. Broken hip requiring a hip replacement;
- b. Serious and permanent disfigurement;
- c. Limitations in her activities, both social and recreational; and
- d. Following the incident the Plaintiff has and will continue to have pain, suffering, humiliation, embarrassment, inconvenience, limitation in physical activities, and impairment of her social existence.

22. As a direct and proximate result of the breaches by Defendants, Karen Smolarz has suffered physical, emotional, and economic damages for which the Defendants are liable.

WHEREFORE, Plaintiff seeks damages against the Defendants in an amount in excess of Twenty Five-Thousand (\$25,000.00) Dollars to which she is found by the Trier of Fact to be

entitled, together with reasonable costs, interest and attorney fees, and any other relief that this Court deems proper under the circumstances.

**ZEBROWSKI LAW**

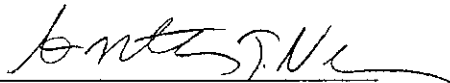
By:   
Paul A. Zebrowski (P44427)  
Thomas A. Biscup (40380)  
Anthony J. Nardone (P78836)  
ZEBROWSKI LAW  
Attorneys for Plaintiff  
45952 Schoenherr Road  
Shelby Township, MI 48315  
(586) 566-7266  
paul@zebrowskilaw.com  
file@zebrowskilaw.com

Dated: July 24, 2015

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial by jury of all issues so triable.

Respectfully submitted,

By:   
Paul A. Zebrowski (P44427)  
Thomas A. Biscup (40380)  
Anthony J. Nardone (P78836)  
Attorneys for Plaintiff  
ZEBROWSKI LAW  
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file@zebrowskilaw.com

Dated: July 24, 2015

**RECEIVED**

JUL 24 2015

CARMELLA SABAUGH  
Macomb County Clerk